

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KERRY DEVIN O'BRYAN,

Plaintiff,

v.

Case No. 05-73226

BUREAU OF PRISONS, et al.,

HONORABLE AVERN COHN

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,
DENYING PLAINTIFF'S MOTION TO STRIKE ANSWER,
AND DENYING PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT**

This is a prisoner civil rights case. Plaintiff Kerry Devin O'Bryan (O'Bryan), an inmate in the custody of the Federal Bureau of Prisons, is suing the Bureau of Prisons and various Bureau of Prisons officials, claiming that they violated his right to the free expression of his religion under the First Amendment to the United States Constitution.

Before the Court are two motions: (1) O'Bryan's Motion to Strike Defendant's [sic] Answer to First Amended Complaint as Untimely Under Federal Rule of Civil Procedure 12 and (2) O'Bryan's Motion for Entry of Default Pursuant to Federal Rule of Civil Procedure 55.

On September 29, 2005, the Court entered an order referring pretrial proceedings to a magistrate judge. See Order of Reference to United States Magistrate Judge, filed September 29, 2005. Based on this order, O'Bryan's motions were referred to a magistrate judge for a report and recommendation. The magistrate judge on November 21, 2005, recommended that O'Bryan's motions be denied. Neither party

filed objections to the recommendation. Accordingly, the findings and conclusions of the magistrate judge are adopted as the findings and conclusions of the Court.

O'Bryan's motions are DENIED.

SO ORDERED.

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: January 9, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 9, 2006, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager
(313) 234-5160